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**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

CWP No. 1627 of 2020  
Date of Decision: 21.12.2021

M/s The Chess Empire

-Petitioner

Versus

State of Punjab and others

-Respondents

**CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH**

Present: Mr. Umesh Aggarwal, Advocate,  
for the petitioner.

Mr. T.P.S. Chawla, D.A.G., Punjab.

Mr. Shivam Grover, Advocate,  
for respondent No.4.

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**RAJ MOHAN SINGH, J. (Oral)**

Petitioner has preferred this writ petition for the issuance of an appropriate writ in the nature of mandamus, directing the respondents to refund payment of Rs.6,40,000/- along with interest @ 18% to the petitioner which was deposited on 10.03.2015 in pursuance of tender in respect of cutting of 192 trees at village Labbar, Block Talwara, District Hoshiarpur.

Learned counsel for the petitioner submits that on 10.03.2015, tender was allotted to the petitioner with regard to

cutting of 192 trees. Petitioner deposited an amount of Rs.6,40,000/- in pursuance of the said tender but work was never permitted to be done by the Gram Panchayat-respondent No.4. Petitioner was assured by the respondents including the official respondents that the order with regard to cutting of trees shall be given in the month of August, 2015, however, no such order was given to the petitioner in pursuance of tender which was allotted to him on 10.03.2015.

According to learned counsel for the petitioner, he was informed that there is some restraint order from the High Court and therefore, cutting of trees in the entire State of Punjab cannot be allowed.

Grievance of the petitioner is that despite passage of time, neither respondents allowed the petitioner to cut the trees nor have refunded the amount to the petitioner. Despite numerous representations made by the petitioner, needful in the context of release of his payment with interest has not been done till date. Respondents No.1 to 3 have taken a stand that the land from which the trees had to be cut belongs to respondent No.4. Cutting and picking of trees had to be supervised by the Gram Panchayat alone. Respondent No.3 has verified the aforesaid fact from the Gram Panchayat and the Gram Panchayat has informed the official respondents that

the petitioner was never stopped from cutting the trees and finishing his allotted work. The Gram Panchayat is still ready to get the trees cut and picked up from the forest as the dry trees may catch fire. The Gram Panchayat has requested the official respondents to direct the petitioner to abide by the terms and conditions of the tender allotted to him.

Initial reply dated 18.10.2021 filed by respondents No.1 to 3 was found to be evasive on some material particulars. Vide order dated 25.10.2021, learned State counsel sought time to file additional reply in order to ventilate the stand taken in the reply in the context of any restraint order passed by the High Court as well as the orders (if any) passed for cutting the trees by respondent No.2.

In pursuance of the aforesaid order, respondent No.3 has filed additional affidavit on behalf of respondents No.1 to 3 on 15.12.2021 communicating therein that there was no restraint order by the High Court. It was the obligation on the part of respondent No.4 to permit the petitioner to do the needful in the context of cutting of trees and monitor the situation accordingly.

In the reply, respondent No.3 has referred to the communication issued by respondent No.3 to respondent No.4- Gram Panchayat in the aforesaid subject matter.

Contents of memo no.3125 dated 27.10.2021 as summed up  
is as under:-

*“From*

*Block Development and Panchayat Officer,  
Talwara.*

*To*

*Sarpanch, Gram Panchayat,  
Labbar, Block Talwara.*

*Memo No.3125 dated 27.10.2021.*

*Subject: Civil Writ Petition No.1627 of 2020-  
M/s Chess Empire Versus State of Punjab.*

*With regard to the subject cited above,  
you are hereby informed that the Hon'ble  
Punjab and Haryana High Court has passed  
the order dated 25.10.2021 that self-declared  
report regarding instructions issued by the  
Gram Panchayat to the bidder for cutting of  
trees or the approval given by the Gram  
Panchayat regarding cutting of said trees,  
immediately be given because the petitioner  
is saying that after auction, the Gram  
Panchayat has not issued any instruction to  
me, therefore, I could not cut down the trees.  
Therefore self-declared report regarding  
instructions issued for the cutting of above  
said trees be given to this office so that the  
reply could be got vetted prior to 21.12.2021*

*for filing the same in the Hon'ble Punjab & Haryana High Court. No negligence be done in this regard and it may be treated as most urgent.*

*Sd/-*

*Block Development and Panchayat Officer,  
Talwara”.*

In compliance of aforesaid order dated 27.10.2021, the Gram Panchayat has passed a resolution on 15.11.2021 resolving that petitioner was orally asked to cut the trees upto 31.03.2015 as per conditions of the Department of Forest and if he fails to deposit the balance amount prior to cutting the trees, then the auction will be re-conducted by forfeiting the amount deposited by the petitioner. Respondent No.4 has also mentioned that the petitioner was informed that if the trees are not cut down upto 31.05.2015 as fixed by the Department of Forest, then the contractor will have to take approval from the Department at his own level, failing which the contractor shall be responsible.

Perusal of the aforesaid resolution would show that the same is contrary to the stand taken by respondent No.4 in its reply, wherein resolution dated 26.02.2016 has been referred to show that it was unanimously resolved on 26.02.2016 that open auction for the removal of 192 dried and fallen trees in the Shamlat Rakba of the Gram Panchayat had

been undertaken on 10.03.2015. Due to open auction being late, the cutting of the trees could not be done. Dried trees had fallen and there was apprehension that the dried fallen trees may catch fire in the jungle and may cause damage worth lacs of rupees. It was resolved that a permit may be issued for the cutting of standing dry trees.

Perusal of the aforesaid resolution would show that it was resolved to give permit to the petitioner for cutting of trees, but no such order permitting the petitioner to carry out cutting is forthcoming on record.

Admittedly, the work assignment could not be completed by the petitioner for different reasons as espoused by the respondents in their respective stand. The fact remains that an amount of Rs.6,40,000/- is still lying with respondent No.4 and respondent No.4 has no such order, authorizing the petitioner to undertake the assignment of cutting of trees at any point of time, nor has respondent No.4 refunded the amount of Rs.6,40,000/- along with interest to the petitioner.

In view of conflicting stand taken by the respondents, I deem it appropriate to accept this writ petition. Respondent No.4 is directed to refund the amount of Rs.6,40,000/- along with 9% interest from the date of receipt of said amount till final realization of the amount.

Needful shall be done within a period of one month from the date of receipt of certified copy of this order.

21.12.2021  
Jyoti Sharma

**(RAJ MOHAN SINGH)**  
**JUDGE**

**Whether speaking/reasoned**

**Yes/No**

**Whether reportable**

**Yes/No**